

AMENDED IN ASSEMBLY APRIL 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1067

Introduced by Assembly Member Brownley

February 27, 2009

An act to amend ~~Section 358.1 of~~ Sections 39807.5, 41850, 48853.5, and 49069.5 of the Education Code, and to amend Sections 358.1, 11460, 16010, 16500.1, and 16501.1 of, and to add Section 10104 to, the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1067, as amended, Brownley. Children in foster care: school proximity and travel costs.

(1) Under existing law, the governing board of a school district may provide transportation to and from schools under specified circumstances. The governing board may, in some circumstances, require the parents and guardians of all or some of the pupils transported to pay a portion of the costs.

This bill would require governing boards that provide transportation to take into account the transportation needs of foster youth, as specified.

Under existing law, the state provides for specified funding for school districts, including funding for home-to-school transportation.

This bill would include transportation of foster youth to their school of origin in the definition of home-to-school transportation for these funding purposes.

Existing law specifies a process to be conducted by the local educational agency and the county placing agency to determine the placement of a foster child in school, including determining the school

of origin, methods for transfer, if appropriate, procedures for students who miss school for specified reasons, and the payment of transportation costs. The local educational agency and the county placing agency are encouraged to collaborate in this process.

This bill would make specified changes to the overall process and would specify that, as part of the collaborative efforts, a memorandum of understanding or equivalent mutual agreement be entered into to support a collaborative process for providing transportation for foster youth to their school of origin, as specified.

Existing law requires that a local educational agency ensure that no lowering of grades occur under prescribed circumstances, including when a pupil in foster care is absent due to a decision made by a court or placing agency to change the placement of the pupil or to a verified court appearance or other court activity.

This bill would add to these circumstances an absence of a child in foster care caused by a delay in securing appropriate transportation to the child's school of origin.

By imposing new duties upon local educational agencies, the bill would constitute a state-mandated local program.

Existing

(2) *Existing law declares the intent of the Legislature to preserve and strengthen a child's family ties whenever possible, removing the child from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. Existing law includes various provisions relating to the provision of appropriate placement and other services for children in foster care. When placement is determined for a child who has been adjudged a dependent of the juvenile court, existing law requires a social study or evaluation to be made by a social worker or child advocate appointed by the court. Existing law requires the child's case plan to include a health and education summary, which, among other components, is required to include assurances that the placement takes into account proximity to the school in which the child is enrolled at the time of placement.*

This bill would ~~specify~~ require the social study or ~~evaluation~~ of a dependent child of the juvenile court to address whether the proposed placement takes school proximity into account and whether a transportation plan has been developed to ensure that the child remains enrolled in his or her school of origin if the child's proposed placement is not in proximity to that school.

The bill would require that the health and education summary also include assurances that the child welfare agency has taken specified steps to ensure that the child remains in the school in which he or she is enrolled at the time of placement. It would further require that the child's case plan include an emergency transportation plan that identifies resources and funding that shall be used, when necessary, to transport the child to the school of origin, if the child must be moved. The bill would also state that county placing agencies are ultimately responsible for ensuring that the foster youth remain in his or her school of origin and for providing transportation.

By imposing additional duties upon child welfare agencies, the bill would create a state-mandated local program.

This bill also would require the State Department of Social Services to take all necessary actions to maximize eligibility for available federal funding for reasonable travel costs for children in foster care, in accordance with a specified provision of federal law.

Under existing law, foster care providers are paid a specified rate for care and supervision of foster youth.

This bill would include reasonable travel costs for the child to remain in his or her school of origin in those costs.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 39807.5 of the Education Code is amended*
2 *to read:*

3 39807.5. (a) When the governing board of a school district
4 provides for the transportation of pupils to and from schools in
5 accordance with Section 39800, or between the regular full-time
6 day schools they would attend and the regular full-time
7 occupational training classes attended by them as provided by a

1 regional occupational center or program, the governing board of
2 the district may require the parents and guardians of all or some
3 of the pupils transported, to pay a portion of the cost of this
4 transportation in an amount determined by the governing board.

5 (b) The amount determined by the governing board shall be no
6 greater than the statewide average nonsubsidized cost of providing
7 this transportation to a pupil on a publicly owned or operated transit
8 system as determined by the Superintendent, in cooperation with
9 the Department of Transportation.

10 (c) For purposes of this section, “nonsubsidized cost” means
11 actual operating costs less federal subventions.

12 (d) The governing board shall exempt from these charges pupils
13 of parents and guardians who are indigent as set forth in rules and
14 regulations adopted by the board.

15 (e) A charge under this section may not be made for the
16 transportation of individuals with exceptional needs as defined in
17 Section 56026.

18 (f) Nothing in this section shall be construed to sanction,
19 perpetuate, or promote the racial or ethnic segregation of pupils
20 in the schools.

21 (g) *When transportation is provided to pupils within the district,*
22 *the governing board shall take into account the special*
23 *transportation needs of foster youth enrolled in the district,*
24 *including, but not limited to, transportation to their school of*
25 *origin.*

26 *SEC. 2. Section 41850 of the Education Code is amended to*
27 *read:*

28 41850. (a) Apportionments made pursuant to this article shall
29 only be made for home-to-school transportation and special
30 education transportation, as defined in this section.

31 (b) As used in this article, “home-to-school transportation”
32 includes all of the following:

33 (1) The transportation of pupils between their homes and the
34 regular full-time day school they attend, as provided by a school
35 district or county superintendent of schools.

36 (2) The payment of moneys by a school district or county
37 superintendent of schools to parents or guardians of pupils made
38 in lieu of providing for the transportation of pupils between their
39 homes and the regular full-time day schools they attend.

1 (3) Providing board and lodging to pupils by a school district
2 or county superintendent of schools made in lieu of providing for
3 the transportation of pupils between their homes and the regular
4 full-time day schools they attend.

5 (4) The transportation of pupils between the regular full-time
6 day schools they would attend and the regular full-time
7 occupational training classes they attend, as provided by a regional
8 occupational center or program.

9 (5) The transportation of individuals with exceptional needs, as
10 specified in their individualized education programs, who do not
11 receive special education transportation as defined in subdivision
12 (d).

13 (6) The payment of moneys by a school district or county
14 superintendent of schools for the replacement or acquisition of
15 schoolbuses.

16 (7) *The transportation of foster youth to their school of origin*
17 *pursuant to paragraph (5) of subdivision (d) of Section 48853.5.*

18 (c) For purposes of this article, the computation of the
19 allowances provided to a regional occupational center or program
20 shall be subject to all of the following:

21 (1) A regional occupational center or program shall receive no
22 allowance for 50 percent of the total transportation costs.

23 (2) A regional occupational center or program shall be eligible
24 for a transportation allowance only if the total transportation costs
25 exceed 10 percent of the total operational budget of the regional
26 occupational center or program.

27 (3) A regional occupational center or program eligible for a
28 transportation allowance pursuant to paragraph (2) shall receive
29 an amount equal to one-third of the transportation costs subject to
30 reimbursement.

31 (d) As used in this article, “special education transportation”
32 means either of the following:

33 (1) The transportation of severely disabled special day class
34 pupils, and orthopedically impaired pupils who require a vehicle
35 with a wheelchair lift, who received transportation in the prior
36 fiscal year, as specified in their individualized education program.

37 (2) A vehicle that was used to transport special education pupils.

38 *SEC. 3. Section 48853.5 of the Education Code is amended to*
39 *read:*

1 48853.5. (a) This section applies to any foster child who has
2 been removed from his or her home pursuant to Section 309 of the
3 Welfare and Institutions Code, is the subject of a petition filed
4 under Section 300 or 602 of the Welfare and Institutions Code, or
5 has been removed from his or her home and is the subject of a
6 petition filed under Section 300 or 602 of the Welfare and
7 Institutions Code.

8 (b) Each local educational agency shall designate a staff person
9 as the educational liaison for foster children. In a school district
10 that operates a foster children services program pursuant to Chapter
11 11.3 (commencing with Section 42920) of Part 24, the educational
12 liaison shall be affiliated with the local foster children services
13 program. The liaison shall do all of the following:

14 (1) Ensure and facilitate the proper educational placement,
15 enrollment in school, and checkout from school of foster children.

16 (2) Assist foster children when transferring from one school to
17 another or from one school district to another in ensuring proper
18 transfer of credits, records, and grades.

19 (c) This section does not grant authority to the educational
20 liaison that supersedes the authority granted under state and federal
21 law to a parent or guardian retaining educational rights, a
22 responsible adult appointed by the court to represent the child
23 pursuant to Section 361 or 726 of the Welfare and Institutions
24 Code, a surrogate parent, or a foster parent exercising the authority
25 granted under Section 56055. The role of the educational liaison
26 is advisory with respect to placement decisions and determination
27 of school of origin.

28 (d) (1) At the initial detention or placement, or any subsequent
29 change in placement of a foster child, the local educational agency
30 serving the foster child shall allow the foster child to continue his
31 or her education in the school of origin for the duration of the
32 ~~academic school year~~ *placement*.

33 (2) The liaison, in consultation with and *with* the agreement of
34 the foster child and the person holding the right to make
35 educational decisions for the foster child, may, in accordance with
36 the foster child's best interests, recommend that the foster child's
37 right to attend the school of origin be waived and the foster child
38 be enrolled in ~~any~~ *a* public school that pupils living in the
39 attendance area in which the foster child resides are eligible to
40 attend.

1 (3) Prior to making ~~any~~ a recommendation to move a foster
2 child from his or her school of origin, the liaison shall provide the
3 foster child and the person holding the right to make educational
4 decisions for the foster child with a written explanation stating the
5 basis for the recommendation and how this recommendation serves
6 the foster child's best interest.

7 (4) (A) If the liaison in consultation with the foster child and
8 the person holding the right to make educational decisions for the
9 foster child agree that the best interests of the foster child would
10 best be served by his or her transfer to a school other than the
11 school of origin, the foster child shall immediately be enrolled in
12 the new school.

13 (B) The new school shall immediately enroll the foster child
14 even if the foster child has outstanding fees, fines, textbooks, or
15 other items or moneys due to the school last attended or is unable
16 to produce records or clothing normally required for enrollment,
17 such as previous academic records, medical records, proof of
18 residency, other documentation, or school uniforms.

19 (C) The liaison for the new school shall, within two business
20 days of the foster child's request for enrollment, contact the school
21 last attended by the foster child to obtain all academic and other
22 records. All required records shall be provided to the new school
23 regardless of ~~any~~ outstanding fees, fines, textbooks, or other items
24 or moneys owed to the school last attended. The school liaison for
25 the school last attended shall provide all records to the new school
26 within two business days of receiving the request.

27 (5) If ~~any~~ a dispute arises regarding the request of a foster child
28 to remain in the school of origin, the foster child has the right to
29 remain in the school of origin pending resolution of the dispute.
30 The dispute shall be resolved in accordance with the existing
31 dispute resolution process available to ~~any~~ a pupil served by the
32 local educational agency.

33 (6) The local educational agency and the county placing agency
34 are encouraged to collaborate to ensure maximum utilization of
35 available federal moneys, explore public-private partnerships, and
36 access ~~any~~ other funding sources to promote the well-being of
37 foster children through educational stability. *These collaborative*
38 *efforts may include, but are not limited to, entering into a*
39 *memorandum of understanding or equivalent mutual agreement*
40 *to support a collaborative process for providing transportation*

1 *for foster youth, when necessary, to their school of origin. The*
2 *memorandum of understanding or equivalent mutual agreement*
3 *may include, but is not limited to, all of the following:*

4 *(A) A process to identify all available funding sources for the*
5 *transportation of foster youth.*

6 *(B) Development of a mechanism to match funding sources with*
7 *specific circumstances.*

8 *(C) Development of a mechanism to resolve disagreements*
9 *about funding. That mechanism may include another entity*
10 *petitioning the juvenile court, pursuant to procedures established*
11 *by the California Rules of Court, to resolve the dispute.*

12 *(D) A process to ensure immediate payment of transportation*
13 *costs to the school of origin using funds provided by Section*
14 *675(4)(A) of Title 42 of the United States Code, until the issues*
15 *with respect to the funding of transportation are resolved.*

16 *(E) The identification of point persons at the local educational*
17 *agency and county placing agency who are responsible for*
18 *ensuring that transportation is provided.*

19 *(e) For purposes of this section, “school of origin” means the*
20 *school that the foster child attended when permanently housed or*
21 *the school in which the foster child was last enrolled. If the school*
22 *the foster child attended when permanently housed is different*
23 *from the school in which the foster child was last enrolled, or if*
24 *there is some other school that the foster child attended with which*
25 *the foster child is connected and which the foster child attended*
26 *within the immediately preceding 15 months, the liaison, in*
27 *consultation with and the agreement of the foster child and the*
28 *person holding the right to make educational decisions for the*
29 *foster child, shall determine, in the best interests of the foster child,*
30 *the school that shall be deemed the school of origin.*

31 *(f) This section does not supersede other law governing the*
32 *educational placements in juvenile court schools, as defined by*
33 *Section 48645.1, by the juvenile court under Section 602 of the*
34 *Welfare and Institutions Code.*

35 *SEC. 4. Section 49069.5 of the Education Code is amended to*
36 *read:*

37 *49069.5. (a) The Legislature finds and declares that the*
38 *mobility of pupils in foster care often disrupts their educational*
39 *experience. The Legislature also finds that efficient transfer*

1 procedures and transfer of pupil records is a critical factor in the
2 swift placement of foster children in educational settings.

3 (b) The proper and timely transfer between schools of pupils in
4 foster care is the responsibility of both the local educational agency
5 and the county placing agency.

6 (c) As soon as the county placing agency becomes aware of the
7 need to transfer a pupil in foster care out of his or her current
8 school, the county placing agency shall contact the appropriate
9 person at the local educational agency of the pupil. The county
10 placing agency shall notify the local educational agency of the
11 date that the pupil will be leaving the school and request that the
12 pupil be transferred out.

13 (d) Upon receiving a transfer request from a county placing
14 agency, the local educational agency shall, within two business
15 days, transfer the pupil out of school and deliver the educational
16 information and records of the pupil to the next educational
17 placement.

18 (e) As part of the transfer process described under subdivisions
19 (c) and (d), the local educational agency shall compile the complete
20 educational record of the pupil including a determination of seat
21 time, full or partial credits earned, current classes and grades,
22 immunization and other records, and, if applicable, a copy of the
23 pupil's plan adopted pursuant to Section 504 of the federal
24 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 et seq.) or
25 individualized education program adopted pursuant to the federal
26 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400
27 et seq.).

28 (f) The local educational agency shall assign the duties listed
29 in this section to a person competent to handle the transfer
30 procedure and aware of the specific educational recordkeeping
31 needs of homeless, foster, and other transient children who transfer
32 between schools.

33 (g) The local educational agency shall ensure that, if the pupil
34 in foster care is absent from school due to a decision to change the
35 placement of a pupil made by a court or placing agency *or by a*
36 *delay in securing appropriate transportation for the pupil to his*
37 *or her school of origin*, the grades and credits of the pupil will be
38 calculated as of the date the pupil left school, and no lowering of
39 grades will occur as a result of the absence of the pupil under these
40 circumstances.

(h) The local educational agency shall ensure that, if the pupil in foster care is absent from school due to a verified court appearance or related court ordered activity *or a delay in securing appropriate transportation for the pupil to his or her school of origin*, no lowering of his or her grades will occur as a result of the absence of the pupil *from either the former or current school, and the pupil shall be provided with the opportunity to make up school or homework missed* under these circumstances.

(i) For the purposes of this section, “pupil in foster care” means any child who has been removed from his or her home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code.

~~SECTION 4.~~

SEC. 5. Section 358.1 of the Welfare and Institutions Code is amended to read:

358.1. Each social study or evaluation made by a social worker or child advocate appointed by the court, required to be received in evidence pursuant to Section 358, shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or social worker has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered these services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child to his or her parents and for achieving legal permanence for the child if efforts to reunify fail, is recommended to the court by the county welfare department or probation officer.

(c) Whether the best interests of the child will be served by granting reasonable visitation rights with the child to his or her grandparents, in order to maintain and strengthen the child’s family relationships.

(d) (1) Whether the child has siblings under the court’s jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

1 (B) The appropriateness of developing or maintaining the sibling
2 relationships pursuant to Section 16002.

3 (C) If the siblings are not placed together in the same home,
4 why the siblings are not placed together and what efforts are being
5 made to place the siblings together, or why those efforts are not
6 appropriate.

7 (D) If the siblings are not placed together, the frequency and
8 nature of the visits between siblings.

9 (E) The impact of the sibling relationships on the child's
10 placement and planning for legal permanence.

11 (2) The factual discussion shall include a discussion of indicators
12 of the nature of the child's sibling relationships, including, but not
13 limited to, whether the siblings were raised together in the same
14 home, whether the siblings have shared significant common
15 experiences or have existing close and strong bonds, whether either
16 sibling expresses a desire to visit or live with his or her sibling, as
17 applicable, and whether ongoing contact is in the child's best
18 emotional interest.

19 (e) If the parent or guardian is unwilling or unable to participate
20 in making an educational decision for his or her child, or if other
21 circumstances exist that compromise the ability of the parent or
22 guardian to make educational decisions for the child, the county
23 welfare department or social worker shall consider whether the
24 right of the parent or guardian to make educational decisions for
25 the child should be limited. If the study or evaluation makes that
26 recommendation, it shall identify whether there is a responsible
27 adult available to make educational decisions for the child pursuant
28 to Section 361.

29 (f) Whether the child appears to be a person who is eligible to
30 be considered for further court action to free the child from parental
31 custody and control.

32 (g) Whether the parent has been advised of his or her option to
33 participate in adoption planning, including the option to enter into
34 a postadoption contact agreement as described in Section 8714.7
35 of the Family Code, and to voluntarily relinquish the child for
36 adoption if an adoption agency is willing to accept the
37 relinquishment.

38 (h) The appropriateness of any relative placement pursuant to
39 Section 361.3. However, this consideration may not be cause for
40 continuance of the dispositional hearing.

1 (i) Whether the caregiver desires, and is willing, to provide legal
2 permanency for the child if reunification is unsuccessful.

3 (j) Whether a child's proposed placement takes into account *the*
4 *appropriateness of the current educational setting and proximity*
5 *to the school in which the child is enrolled at the time of placement*
6 *and whether a transportation plan to ensure the continued*
7 *enrollment of the child in his or her school of origin, as*
8 *appropriate, has been developed if the placement is not in close*
9 *proximity to the school of origin.*

10 SEC. 2.—

11 SEC. 6. Section 10104 is added to the Welfare and Institutions
12 Code, to read:

13 10104. (a) The State Department of Social Services shall take
14 all necessary actions to maximize eligibility for available federal
15 funding for reasonable travel costs for children in foster care, in
16 accordance with subsection 4 of Section 675 of Title 42 of the
17 United States Code.

18 (b) *County placing agencies are ultimately responsible for*
19 *ensuring that a foster youth remains in his or her school of origin,*
20 *as appropriate, pursuant to subsection (1) of Section 675 of Title*
21 *42 of the United States Code and shall utilize Title IV-E funds in*
22 *accordance with subsection (4) of Section 675 of Title 42 of the*
23 *United States Code to ensure that appropriate transportation to*
24 *the youth's school of origin is provided.*

25 SEC. 7. Section 11460 of the Welfare and Institutions Code is
26 amended to read:

27 11460. (a) Foster care providers shall be paid a per child per
28 month rate in return for the care and supervision of the AFDC-FC
29 child placed with them. The department is designated the single
30 organizational unit whose duty it shall be to administer a state
31 system for establishing rates in the AFDC-FC program. State
32 functions shall be performed by the department or by delegation
33 of the department to county welfare departments or Indian tribes
34 that have entered into an agreement pursuant to Section 10553.1.

35 (b) "Care and supervision" includes food, clothing, shelter, daily
36 supervision, school supplies, a child's personal incidentals, liability
37 insurance with respect to a child, ~~and~~ reasonable travel to the
38 child's home for visitation, *and reasonable travel for the child to*
39 *remain in the school in which the child is enrolled at the time of*
40 *placement.*

1 (1) For a child placed in a group home, care and supervision
2 shall also include reasonable administration and operational
3 activities necessary to provide the items listed in this subdivision.

4 (2) For a child placed in a group home, care and supervision
5 may also include reasonable activities performed by social workers
6 employed by the group home provider which are not otherwise
7 considered daily supervision or administration activities.

8 (c) It is the intent of the Legislature to establish the maximum
9 level of state participation in out-of-state foster care group home
10 program rates effective January 1, 1992.

11 (1) The department shall develop regulations that establish the
12 method for determining the level of state participation for each
13 out-of-state group home program. The department shall consider
14 all of the following methods:

15 (A) A standardized system based on the level of care and
16 services per child per month as detailed in Section 11462.

17 (B) A system which considers the actual allowable and
18 reasonable costs of care and supervision incurred by the program.

19 (C) A system which considers the rate established by the host
20 state.

21 (D) Any other appropriate methods as determined by the
22 department.

23 (2) State reimbursement for the AFDC-FC group home rate to
24 be paid to an out-of-state program on or after January 1, 1992,
25 shall only be paid to programs which have done both of the
26 following:

27 (A) Submitted a rate application to the department and received
28 a determination of the level of state participation.

29 (i) The level of state participation shall not exceed the current
30 fiscal year's standard rate for rate classification level 14.

31 (ii) The level of state participation shall not exceed the rate
32 determined by the ratesetting authority of the state in which the
33 facility is located.

34 (iii) The level of state participation shall not decrease for any
35 child placed prior to January 1, 1992, who continues to be placed
36 in the same out-of-state group home program.

37 (B) Agreed to comply with information requests, and program
38 and fiscal audits as determined necessary by the department.

1 (3) State reimbursement for an AFDC-FC rate paid on or after
2 January 1, 1993, shall only be paid to a group home organized and
3 operated on a nonprofit basis.

4 (d) A foster care provider that accepts payments, following the
5 effective date of this section, based on a rate established under this
6 section, shall not receive rate increases or retroactive payments as
7 the result of litigation challenging rates established prior to the
8 effective date of this section. This shall apply regardless of whether
9 a provider is a party to the litigation or a member of a class covered
10 by the litigation.

11 (e) Nothing shall preclude a county from using a portion of its
12 county funds to increase rates paid to family homes and foster
13 family agencies within that county, and to make payments for
14 specialized care increments, clothing allowances, or infant
15 supplements to homes within that county, solely at that county's
16 expense.

17 (f) *On or before July 1, 2011, the department, in consultation*
18 *with representatives of the County Welfare Directors Association,*
19 *the Chief Probation Officers of California, the California Youth*
20 *Connection, child advocacy organizations, foster caregiver*
21 *organizations, and other interested stakeholders, shall revise*
22 *regulations relative to the care and supervision rate to take into*
23 *account costs for travel to the school in which the youth is enrolled*
24 *at the time of placement, as appropriate, pursuant to this section.*

25 (g) *Notwithstanding the Administrative Procedure Act, Chapter*
26 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
27 *Title 2 of the Government Code, the department shall, in*
28 *consultation with the stakeholders listed in subdivision (f), prepare*
29 *for implementation of the applicable provisions of this section by*
30 *publishing all-county letters or similar instructions from the*
31 *director. Emergency regulations to implement this section may be*
32 *adopted by the director in accordance with the Administrative*
33 *Procedure Act. The initial adoption of the emergency regulations*
34 *and one readoption of the initial regulations shall be deemed to*
35 *be an emergency and necessary for the immediate preservation of*
36 *the public peace, health, safety, or general welfare. Initial*
37 *emergency regulations and the first readoption of those emergency*
38 *regulations shall be exempt from review by the Office of*
39 *Administrative Law. The emergency regulations authorized by this*
40 *section shall be submitted to the Office of Administrative Law for*

1 *filing with the Secretary of State and shall remain in effect for not*
2 *more than 180 days.*

3 *SEC. 8. Section 16010 of the Welfare and Institutions Code is*
4 *amended to read:*

5 16010. (a) When a child is placed in foster care, the case plan
6 for each child recommended pursuant to Section 358.1 shall include
7 a summary of the health and education information or records,
8 including mental health information or records, of the child. The
9 summary may be maintained in the form of a health and education
10 passport, or a comparable format designed by the child protective
11 agency. The health and education summary shall include, but not
12 be limited to, the names and addresses of the child's health, dental,
13 and education providers, the child's grade level performance, the
14 child's school record, assurances that the child's placement in
15 foster care takes into account proximity to the school in which the
16 child is enrolled at the time of placement, *assurances that the*
17 *agency has coordinated with appropriate educational agencies to*
18 *ensure that the child remains in the school in which the child is*
19 *enrolled at the time of placement, a transportation plan that*
20 *identifies resources and funding that shall be used, when necessary,*
21 *to transport the child to the school of origin,* a record of the child's
22 immunizations and allergies, the child's known medical problems,
23 the child's current medications, past health problems and
24 hospitalizations, a record of the child's relevant mental health
25 history, the child's known mental health condition and medications,
26 and any other relevant mental health, dental, health, and education
27 information concerning the child determined to be appropriate by
28 the Director of Social Services. If any other provision of law
29 imposes more stringent information requirements, then that section
30 shall prevail.

31 (b) Additionally, any court report or assessment required
32 pursuant to subdivision (g) of Section 361.5, Section 366.1,
33 subdivision (d) of Section 366.21, or subdivision (b) of Section
34 366.22 shall include a copy of the current health and education
35 summary described in subdivision (a).

36 (c) As soon as possible, but not later than 30 days after initial
37 placement of a child into foster care, the child protective agency
38 shall provide the caretaker with the child's current health and
39 education summary as described in subdivision (a). For each
40 subsequent placement, the child protective agency shall provide

1 the caretaker with a current summary as described in subdivision
2 (a) within 48 hours of the placement.

3 (d) (1) Notwithstanding Section 827 or any other provision of
4 law, the child protective agency may disclose any information
5 described in this section to a prospective caretaker or caretakers
6 prior to placement of a child if all of the following requirements
7 are met:

8 (A) The child protective agency intends to place the child with
9 the prospective caretaker or caretakers.

10 (B) The prospective caretaker or caretakers are willing to
11 become the adoptive parent or parents of the child.

12 (C) The prospective caretaker or caretakers have an approved
13 adoption assessment or home study, a foster family home license,
14 certification by a licensed foster family agency, or approval
15 pursuant to the requirements in Sections 361.3 and 361.4.

16 (2) In addition to the information required to be provided under
17 this section, the child protective agency may disclose to the
18 prospective caretaker specified in paragraph (1), placement history
19 or underlying source documents that are provided to adoptive
20 parents pursuant to subdivisions (a) and (b) of Section 8706 of the
21 Family Code.

22 (e) The child's caretaker shall be responsible for obtaining and
23 maintaining accurate and thorough information from physicians
24 and educators for the child's summary as described in subdivision
25 (a) during the time that the child is in the care of the caretaker. On
26 each required visit, the child protective agency or its designee
27 family foster agency shall inquire of the caretaker whether there
28 is ~~any~~ new information that should be added to the child's summary
29 as described in subdivision (a). The child protective agency shall
30 update the summary with ~~such~~ *appropriate* information ~~as~~
31 ~~appropriate~~, but not later than the next court date or within 48
32 hours of a change in placement. The child protective agency or its
33 designee family foster agency shall take all necessary steps to
34 assist the caretaker in obtaining relevant health and education
35 information for the child's health and education summary as
36 described in subdivision (a).

37 (f) At the initial hearing, the court shall direct each parent to
38 provide to the child protective agency complete medical, dental,
39 mental health, and educational information, and medical
40 background, of the child and of the child's mother and the child's

1 biological father if known. The Judicial Council shall create a form
2 for the purpose of obtaining health and education information from
3 the child's parents or guardians at the initial hearing. The court
4 shall determine at the hearing held pursuant to Section 358 whether
5 the medical, dental, mental health, and educational information
6 has been provided to the child protective agency.

7 *SEC. 9. Section 16500.1 of the Welfare and Institutions Code*
8 *is amended to read:*

9 16500.1. (a) It is the intent of the Legislature to use the
10 strengths of families and communities to serve the needs of children
11 who are alleged to be abused or neglected, as described in Section
12 300, to reduce the necessity for removing these children from their
13 home, to encourage speedy reunification of families when it can
14 be safely accomplished, to locate permanent homes and families
15 for children who cannot return to their biological families, to reduce
16 the number of placements experienced by these children, to ensure
17 that children leaving the foster care system have support within
18 their communities, to improve the quality and homelike nature of
19 out-of-home care, and to foster the educational progress of children
20 in out-of-home care.

21 (b) In order to achieve the goals specified in subdivision (a),
22 the state shall encourage the development of approaches to child
23 protection that do all of the following:

24 (1) Allow children to remain in their ~~own schools~~ *school of*
25 *origin*, in close proximity to their families.

26 (2) Increase the number and quality of foster families available
27 to serve these children.

28 (3) Use a team approach to foster care that permits the biological
29 and foster family and the child to be part of that team.

30 (4) Use team decisionmaking in case planning.

31 (5) Provide support to foster children and foster families.

32 (6) Ensure that licensing requirements do not create barriers to
33 recruitment of qualified, high-quality foster homes.

34 (7) Provide training for foster parents and professional staff on
35 working effectively with families and communities.

36 (8) Encourage foster parents to serve as mentors and role models
37 for biological parents.

38 (9) Use community resources, including community-based
39 agencies and volunteer organizations, to assist in developing

1 placements for children and to provide support for children and
2 their families.

3 (10) Ensure an appropriate array of placement resources for
4 children in need of out-of-home care.

5 (11) Ensure that no child leaves foster care without a lifelong
6 connection to a committed adult.

7 (12) Ensure that children are actively involved in the case plan
8 and permanency planning process.

9 (c) (1) Each county shall provide the department with a disaster
10 response plan describing how county programs assisted under Part
11 B (commencing with Section 620) and Part E (commencing with
12 Section 670) of Subchapter IV of Chapter 7 of Title 42 of the
13 United States Code (Titles IV-B and IV-E of the Social Security
14 Act) would respond to a disaster. The plan shall set forth
15 procedures describing how each county will perform the following
16 services:

17 (A) Identify, locate, and continue availability of services for
18 children under state care or supervision who are displaced or
19 adversely affected by a disaster.

20 (B) Respond, as appropriate, to new child welfare cases in areas
21 adversely affected by a disaster, and provide services in those
22 cases.

23 (C) Remain in communication with caseworkers and other
24 essential child welfare personnel who are displaced because of a
25 disaster.

26 (D) Preserve essential program records.

27 (E) Coordinate services and share information with other
28 counties.

29 (2) The department shall review its disaster plan with respect
30 to subparagraphs (A) to (E), inclusive, of paragraph (1), and shall
31 revise the plan to clarify the role and responsibilities of the state
32 in the event of a disaster.

33 (3) The department shall consult with counties to identify
34 opportunities for collaboration between counties, and between the
35 county and the state, in the event of a disaster.

36 (d) In carrying out the requirements of subdivisions (b) and (c),
37 the department shall do all of the following:

38 (1) Consider the existing array of program models provided in
39 statute and in practice, including, but not limited to, wraparound
40 services, as defined in Section 18251, children's systems of care,

1 as provided for in Section 5852, the Oregon Family Unity or Santa
2 Clara County Family Conference models, which include family
3 conferences at key points in the casework process, such as when
4 out-of-home placement or return home is considered, and the Annie
5 E. Casey Foundation Family to Family initiative, which uses team
6 decisionmaking in case planning, community-based placement
7 practices requiring that children be placed in foster care in the
8 communities where they resided prior to placement, and involve
9 foster families as team members in family reunification efforts.

10 (2) Ensure that emergency response services, family
11 maintenance services, family reunification services, and permanent
12 placement services are coordinated with the implementation of the
13 models described in paragraph (1).

14 (3) Ensure consistency between child welfare services program
15 regulations and the program models described in paragraph (1).

16 (e) The department, in conjunction with stakeholders, including,
17 but not limited to, county child welfare services agencies, foster
18 parent and group home associations, the California Youth
19 Connection, and other child advocacy groups, shall review the
20 existing child welfare services program regulations to ensure that
21 these regulations are consistent with the legislative intent specified
22 in subdivision (a). This review shall also determine how to
23 incorporate the best practice guidelines for assessment of children
24 and families receiving child welfare and foster care services, as
25 required by Section 16501.2.

26 (f) The department shall report to the Legislature on the results
27 of the actions taken under this section on or before January 1, 2002.

28 *SEC. 10. Section 16501.1 of the Welfare and Institutions Code*
29 *is amended to read:*

30 16501.1. (a) (1) The Legislature finds and declares that the
31 foundation and central unifying tool in child welfare services is
32 the case plan.

33 (2) The Legislature further finds and declares that a case plan
34 ensures that the child receives protection and safe and proper care
35 and case management, and that services are provided to the child
36 and parents or other caretakers, as appropriate, in order to improve
37 conditions in the parent's home, to facilitate the safe return of the
38 child to a safe home or the permanent placement of the child, and
39 to address the needs of the child while in foster care.

1 (b) (1) A case plan shall be based upon the principles of this
2 section and shall document that a preplacement assessment of the
3 service needs of the child and family, and preplacement preventive
4 services, have been provided, and that reasonable efforts to prevent
5 out-of-home placement have been made.

6 (2) In determining the reasonable services to be offered or
7 provided, the child's health and safety shall be the paramount
8 concerns.

9 (3) Reasonable services shall be offered or provided to make it
10 possible for a child to return to a safe home environment, unless,
11 pursuant to subdivisions (b) and (e) of Section 361.5, the court
12 determines that reunification services shall not be provided.

13 (4) If reasonable services are not ordered, or are terminated,
14 reasonable efforts shall be made to place the child in a timely
15 manner in accordance with the permanent plan and to complete
16 all steps necessary to finalize the permanent placement of the child.

17 (c) (1) If out-of-home placement is used to attain case plan
18 goals, the decision regarding choice of placement shall be based
19 upon selection of a safe setting that is the least restrictive or most
20 familylike and the most appropriate setting that is available and
21 in close proximity to the parent's home, proximity to the child's
22 school, consistent with the selection of the environment best suited
23 to meet the child's special needs and best interests, or both. The
24 selection shall consider, in order of priority, placement with
25 relatives, tribal members, and foster family, group care, and
26 residential treatment pursuant to Section 7950 of the Family Code.

27 (2) In addition to the requirements of paragraph (1), and taking
28 into account other statutory considerations regarding placement,
29 the selection of the most appropriate home that will meet the child's
30 special needs and best interests shall also promote educational
31 stability by taking into consideration proximity to the child's school
32 attendance area *and shall include an emergency transportation*
33 *plan that identifies resources and funding that shall be used, when*
34 *necessary, to transport the child to the school of origin if the child*
35 *must be moved.*

36 (d) A written case plan shall be completed within a maximum
37 of 60 days of the initial removal of the child or of the in-person
38 response required under subdivision (f) of Section 16501 if the
39 child has not been removed from his or her home, or by the date
40 of the dispositional hearing pursuant to Section 358, whichever

1 occurs first. The case plan shall be updated, as the service needs
2 of the child and family dictate. At a minimum, the case plan shall
3 be updated in conjunction with each status review hearing
4 conducted pursuant to Section 366.21, and the hearing conducted
5 pursuant to Section 366.26, but no less frequently than once every
6 six months. Each updated case plan shall include a description of
7 the services that have been provided to the child under the plan
8 and an evaluation of the appropriateness and effectiveness of those
9 services.

10 (1) It is the intent of the Legislature that extending the maximum
11 time available for preparing a written case plan from 30 to 60 days
12 will afford caseworkers time to actively engage families, and to
13 solicit and integrate into the case plan the input of the child and
14 the child's family, as well as the input of relatives and other
15 interested parties.

16 (2) The extension of the maximum time available for preparing
17 a written case plan from the 30 to 60 days shall be effective 90
18 days after the date that the department gives counties written notice
19 that necessary changes have been made to the Child Welfare
20 Services Case Management System to account for the 60-day
21 timeframe for preparing a written case plan.

22 (e) The child welfare services case plan shall be comprehensive
23 enough to meet the juvenile court dependency proceedings
24 requirements pursuant to Article 6 (commencing with Section 300)
25 of Chapter 2 of Part 1 of Division 2.

26 (f) The case plan shall be developed as follows:

27 (1) The case plan shall be based upon an assessment of the
28 circumstances that required child welfare services intervention.
29 The child shall be involved in developing the case plan as age and
30 developmentally appropriate.

31 (2) The case plan shall identify specific goals and the
32 appropriateness of the planned services in meeting those goals.

33 (3) The case plan shall identify the original allegations of abuse
34 or neglect, as defined in Article 2.5 (commencing with Section
35 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
36 conditions cited as the basis for declaring the child a dependent of
37 the court pursuant to Section 300, or all of these, and the other
38 precipitating incidents that led to child welfare services
39 intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5) (A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional

1 well-being. These significant life events shall include, but shall
2 not be limited to, the following:

3 (A) The death of an immediate relative.

4 (B) The birth of a sibling.

5 (C) Significant changes regarding a dependent child, unless the
6 child objects to the sharing of the information with his or her
7 siblings, including changes in placement, major medical or mental
8 health diagnoses, treatments, or hospitalizations, arrests, and
9 changes in the permanent plan.

10 (7) If out-of-home placement is made in a foster family home,
11 group home, or other child care institution that is either a
12 substantial distance from the home of the child's parent or out of
13 state, the case plan shall specify the reasons why that placement
14 is in the best interest of the child. When an out-of-state group home
15 placement is recommended or made, the case plan shall, in
16 addition, specify compliance with Section 7911.1 of the Family
17 Code.

18 (8) (A) If out-of-home services are used, or if parental rights
19 have been terminated and the case plan is placement for adoption,
20 the case plan shall include a recommendation regarding the
21 appropriateness of unsupervised visitation between the child and
22 any of the child's siblings. This recommendation shall include a
23 statement regarding the child's and the siblings' willingness to
24 participate in unsupervised visitation. If the case plan includes a
25 recommendation for unsupervised sibling visitation, the plan shall
26 also note that information necessary to accomplish this visitation
27 has been provided to the child or to the child's siblings.

28 (B) Information regarding the schedule and frequency of the
29 visits between the child and siblings, as well as any court-ordered
30 terms and conditions needed to facilitate the visits while protecting
31 the safety of the child, shall be provided to the child's out-of-home
32 caregiver as soon as possible after the court order is made.

33 (9) If out-of-home services are used and the goal is reunification,
34 the case plan shall describe the services to be provided to assist in
35 reunification and the services to be provided concurrently to
36 achieve legal permanency if efforts to reunify fail. The plan shall
37 also consider in-state and out-of-state placements, the importance
38 of developing and maintaining sibling relationships pursuant to
39 Section 16002, and the desire and willingness of the caregiver to

1 provide legal permanency for the child if reunification is
2 unsuccessful.

3 (10) If out-of-home services are used, the child has been in care
4 for at least 12 months, and the goal is not adoptive placement, the
5 case plan shall include documentation of the compelling reason
6 or reasons why termination of parental rights is not in the child's
7 best interest. A determination completed or updated within the
8 past 12 months by the department when it is acting as an adoption
9 agency or by a licensed adoption agency that it is unlikely that the
10 child will be adopted, or that one of the conditions described in
11 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
12 be deemed a compelling reason.

13 (11) (A) Parents and legal guardians shall have an opportunity
14 to review the case plan, and to sign it whenever possible, and then
15 shall receive a copy of the plan. In any voluntary service or
16 placement agreement, the parents or legal guardians shall be
17 required to review and sign the case plan. Whenever possible,
18 parents and legal guardians shall participate in the development
19 of the case plan.

20 (B) Parents and legal guardians shall be advised that, pursuant
21 to Section 1228.1 of the Evidence Code, neither their signature on
22 the child welfare services case plan nor their acceptance of any
23 services prescribed in the child welfare services case plan shall
24 constitute an admission of guilt or be used as evidence against the
25 parent or legal guardian in a court of law. However, they shall also
26 be advised that the parent's or guardian's failure to cooperate,
27 except for good cause, in the provision of services specified in the
28 child welfare services case plan may be used in any hearing held
29 pursuant to Section 366.21 or 366.22 as evidence.

30 (12) A child shall be given a meaningful opportunity to
31 participate in the development of the case plan and state his or her
32 preference for foster care placement. A child who is 12 years of
33 age or older and in a permanent placement shall also be given the
34 opportunity to review the case plan, sign the case plan, and receive
35 a copy of the case plan.

36 (13) The case plan shall be included in the court report and shall
37 be considered by the court at the initial hearing and each review
38 hearing. Modifications to the case plan made during the period
39 between review hearings need not be approved by the court if the
40 casework supervisor for that case determines that the modifications

1 further the goals of the plan. If out-of-home services are used with
2 the goal of family reunification, the case plan shall consider and
3 describe the application of subdivision (b) of Section 11203.

4 (14) If the case plan has as its goal for the child a permanent
5 plan of adoption or placement in another permanent home, it shall
6 include a statement of the child's wishes regarding their permanent
7 placement plan and an assessment of those stated wishes. The
8 agency shall also include documentation of the steps the agency
9 is taking to find an adoptive family or other permanent living
10 arrangements for the child; to place the child with an adoptive
11 family, an appropriate and willing relative, a legal guardian, or in
12 another planned permanent living arrangement; and to finalize the
13 adoption or legal guardianship. At a minimum, the documentation
14 shall include child-specific recruitment efforts, such as the use of
15 state, regional, and national adoption exchanges, including
16 electronic exchange systems, when the child has been freed for
17 adoption.

18 (15) When appropriate, for a child who is 16 years of age or
19 older, the case plan shall include a written description of the
20 programs and services that will help the child, consistent with the
21 child's best interests, prepare for the transition from foster care to
22 independent living. The case plan shall be developed with the child
23 and individuals identified as important to the child, and shall
24 include steps the agency is taking to ensure that the child has a
25 connection to a caring adult.

26 (g) If the court finds, after considering the case plan, that
27 unsupervised sibling visitation is appropriate and has been
28 consented to, the court shall order that the child or the child's
29 siblings, the child's current caregiver, and the child's prospective
30 adoptive parents, if applicable, be provided with information
31 necessary to accomplish this visitation. This section does not
32 require or prohibit the social worker's facilitation, transportation,
33 or supervision of visits between the child and his or her siblings.

34 (h) The case plan documentation on sibling placements required
35 under this section shall not require modification of existing case
36 plan forms until the Child Welfare Services Case Management
37 System is implemented on a statewide basis.

38 (i) When a child who is 10 years of age or older and who has
39 been in out-of-home placement for six months or longer, the case
40 plan shall include an identification of individuals, other than the

1 child's siblings, who are important to the child and actions
2 necessary to maintain the child's relationship with those
3 individuals, provided that those relationships are in the best interest
4 of the child. The social worker shall ask every child who is 10
5 years of age or older and who has been in out-of-home placement
6 for six months or longer to identify individuals other than the
7 child's siblings who are important to the child, and may ask any
8 other child to provide that information, as appropriate. The social
9 worker shall make efforts to identify other individuals who are
10 important to the child, consistent with the child's best interests.

11 (j) The child's caregiver shall be provided a copy of a plan
12 outlining the child's needs and services.

13 (k) On or before June 30, 2008, the department, in consultation
14 with the County Welfare Directors Association and other
15 advocates, shall develop a comprehensive plan to ensure that 90
16 percent of foster children are visited by their caseworkers on a
17 monthly basis by October 1, 2011, and that the majority of the
18 visits occur in the residence of the child. The plan shall include
19 any data reporting requirements necessary to comply with the
20 provisions of the federal Child and Family Services Improvement
21 Act of 2006 (Public Law 109-288).

22 (l) The implementation and operation of the amendments to
23 subdivision (i) enacted at the 2005–06 Regular Session shall be
24 subject to appropriation through the budget process and by phase,
25 as provided in Section 366.35.

26 *SEC. 11. If the Commission on State Mandates determines that*
27 *this act contains costs mandated by the state, reimbursement to*
28 *local agencies and school districts for those costs shall be made*
29 *pursuant to Part 7 (commencing with Section 17500) of Division*
30 *4 of Title 2 of the Government Code.*